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151 Pa. St. 88; *Musgrove v. Morrison*, 54 Md. 161. In an action for subscriptions made after incorporation, *de facto* existence need not be shown. *Casey v. Galli*, 94 U. S. 673. As in eminent domain proceedings, there is also a difference of opinion as to whether *de jure* corporate existence need be shown in actions by corporations to collect assessments for benefits. That it must be shown, see *Dusenback v. Attica & B. G. Road Co.*, 43 Ind. 265. That it need not be, see *Evans v. Lewis*, 121 Ill. 478; *Reclamation Dist. No. 542 v. Turner*, 104 Cal. 334.

CRIMINAL LAW—REMARKS OF PROSECUTING ATTORNEY—ERROR.—*PEOPLE V. WOLF*, 95 N. Y. SUPP., 264.—*Held*, that the remarks of the prosecuting attorney to the jury cannot be made the basis of error where they have no tendency to create greater passion or prejudice than the admitted facts in evidence created. *McLaughlin and Ingraham, JJ., dissenting.*

As to what comments by counsel to the jury may be made the basis of error the courts are not all agreed. It has been held that intemperate language calculated to prejudice the jury and prevent a fair trial is ground for reversal. *Cargill v. Commonwealth*, 13 S. W. (Ky.) 916. But the objection to such remarks must be made promptly. *Grosse v. State*, 11 Tex. App. 364. So, also, where the accused has failed to testify in his own behalf, this may not be commented on by the prosecutor. *Price v. Commonwealth*, 77 Va. 393. Abusive language towards the defendant will be ground for reversal. *State v. Young*, 90 Mo. 666; *Stone v. State*, 22 Tex. App. 185; though the contrary has been held, *Anderson v. State*, 104 Ind. 467. But any characterization of the defendant, there being evidence to sustain such expressions, will be allowed. *State v. Brooks*, 92 Mo. 542.

DAMAGES—MENTAL SUFFERING.—*WOODSTOCK IRON WORKS V. STOCKDALE*, 39 S. W. 335 (ALA.).—*Held*, that a husband cannot recover damages for mental suffering to himself caused by the illness of his wife.

In actions for injury to persons mental suffering is an element of damage as an incident to the bodily suffering. *Chicago v. McLean*, 133 Ill. 148. But mental suffering for the injury to others is no ground of action. *Cowden v. Wright*, 24 Wend. 429; *Long v. Morrison*, 14 Ind. 595. And such has been the holding, as in the principal case, even when it is the husband's mental suffering for his wife's injury. *Hyatt v. Adams*, 16 Mich. 180. Some of the states, however, have made an exception to this rule in the case of telegraph companies, allowing a person who has suffered mental anguish through failure of delivery of a telegram to recover damages. *Relle v. Telegraph Co.*, 55 Tex. 308; *Tel. Co. v. Crocker*, 135 Ala. 492. Even in Texas, where this rule was started, it is confined to telegraph cases and exceedingly limited. *Tel. Co. v. Splar*, 126 Fed. 295. However most states decline to follow it. *Giddens v. Tel. Co.*, 111 Ga. 824.

EJECTMENT—INTEREST RECOVERABLE—MINERAL RIGHTS.—*MORAGNE ET AL V. DOE EX DEM. MORAGNE*, 39 S. E. (ALA.) 161.—*Held*, that an administrator may maintain ejectment to recover a mineral interest in lands.

"Ejectment will lie only for things whereof possession may be delivered by the sheriff." *Black v. Hepburne*, 2 Yeates 333. The thing claimed must be a corporeal hereditament. *Rowan v. Kelsey*, 18 Barb. 484. In this term have been included a room in a house, *Otis v. Smith*, 26 Mass. 293, and a real fixture, *Stancel v. Calvert*, 60 N. C. 104. But the action will not lie for a